

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

JUL 25 AM 10:24

THE SECRETARY OF AGRICULTURE  
WASHINGTON, D.C.

In re: ) PACA Docket No. D-99-0008  
)  
Joseph K. Lurie )  
d/b/a Lurie Bros. )  
)  
)  
Respondent ) Consent Decision and Order

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq; hereinafter referred to as the "Act"), instituted by a Complaint filed on April 27, 1999, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture.

The Complaint alleges that Respondent misrepresented by word, act, mark, stencil, statement, or deed, the origin of potatoes that he packed and sold in interstate commerce on August 1 and August 8, 1997. A copy of the Complaint was served upon Respondent. The parties have now agreed to settle this matter without hearing through the entry of a Decision and Order as set forth herein. Accordingly, this Decision and Order is issued pursuant to Section 1.138 of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary (7 C.F.R. §1.138).

Findings of Fact

1. Respondent, Joseph K. Lurie, is an individual doing business as Lurie Bros.  
Respondent's business address is 84 South Water Market, Chicago, Illinois, 60608.
2. Pursuant to the licensing provisions of the Act, license number 980327 was issued to

Respondent on December 9, 1997. This license has been renewed annually and is next subject to renewal on December 9, 1999.

3. As set forth more fully in paragraph III of the Complaint, on August 1 and August 8, 1997, Respondent misrepresented by word, act, mark, stencil, statement, or deed, the origin of potatoes that he packed and sold, in the course of interstate commerce, as the potatoes were represented to have originated in the state of Idaho, however, in actuality, the potatoes originated in the state of Washington.

#### Conclusion

Respondent's misrepresentations constitute willful, flagrant and repeated violations of section 2(5) of the PACA (7 U.S.C. § 499b(5)), for which the Order below is issued.

#### Order

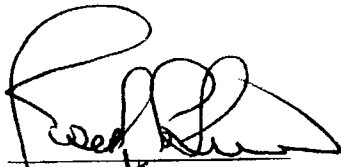
Respondent is assessed a \$10,000.00 civil penalty in lieu of a 30 day suspension of Respondent's PACA license, pursuant to Section 8(e) of the PACA (7 U.S.C. § 499h) . If Respondent fails to satisfy the civil penalty according to the terms of the Understanding with Respect to Civil Penalty and Payment Terms entered into with Complainant, the 30 day suspension of Respondent's PACA license shall automatically commence upon notice to Respondent without further procedure.

This order shall become final within 10 days of issuance.

Copies hereof shall be served upon the parties.

Issued at Washington, D.C.


This 25 day of June 1999



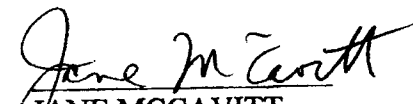
JOSEPH R. LURIE  
Respondent 78



Administrative Law Judge



ERIC M. FORMAN  
Associate Deputy Administrator  
Fruit and Vegetable Programs  
Agricultural Marketing Service



JANE MCCAIVITT  
Attorney for Complainant